

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/342,768	06/29/99	DOYLE	S 17286

THE WHITAKER CORPORATION  
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WM01/0926

EXAMINER

NGUYEN, T

ART UNIT

PAPER NUMBER

2684

DATE MAILED:

09/26/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

See Attachments

# Office Action Summary

Application No.

09/342,768

Applicant(s)

Doyle et al.

Examiner

Thuan Nguyen

Art Unit

2684

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

Art Unit: 2684

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --*

*(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.*

3. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Blasing et al. (U.S. Patent No. 5,771,449).

Regarding claim 1, Blasing et al (or "Blasing" hereinafter) discloses a local multipoint distribution service system (LDMS) having an antenna for transmitting a signal of reused frequency within a specified range from the antenna (see Figs. 1-3 & 19-24, col. 7/lines 8-53 for antenna using in LDMS system, and col. 13/line 60 to col. 14/line 15 for LDMS issue, and col. 5/lines 25-33 for frequency re-use), the antenna having multiple radiating antenna elements (see

Art Unit: 2684

col. 22/lines 35-50 and col. 24/lines 45-50 for antennas which distribute power to the individual radiating elements of antennas), each of the antenna elements being adjusted in phase and in amplitude of radiated signal across the radiating elements to mitigate radiation above the horizon, i.e., radiation or signal power output can be attenuated above the horizon, for example, due to weather conditions between some certain geographical regions (Fig. 3 and col. 8/lines 7-17), and each of the antenna elements being adjusted in phase and in amplitude of radiated signal therefrom to decrease attenuation in radiated power with distance from the antenna (see col. 21/lines 40-53 to ensure the attenuation among radiated power from nearby antennas).

As for claim 2, in further view of claim 1 above, Blasing further suggests the step of “each of the antenna elements being adjusted in phase and amplitude of signal across the antenna elements to mitigate nulls between lobes of combined radiated signals collectively from the antenna elements”, i.e., the maximum and minimum power level is maintained by implementing the low side lobe or shape beam antennas in adjacent sectors (see col. 23/lines 35-50).

With respect to claim 3, in further view of claim 1 above, Blasing further reveals “each of the antenna elements being adjusted in phase and in amplitude of signal across the antenna elements to reduce excess signal power at near range”, i.e., an excess power output is reduced at near range or at adjacent sectors by eliminating unwanted energy from using low sidelobe antennas (see col. 22/lines 35-50).

Art Unit: 2684

*Conclusion*

4. **Any response to this action should be mailed to:**  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**  
**(703) 872-9314, (for Technology Center 2600 only)**


*Hand-delivered responses should be brought to Crystal Park II,  
2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (703) 308-5860. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Hunter, can be reached at (703) 308-6732.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

Tony T. Nguyen  
Art Unit 2684  
September 18, 2001

  
**DANIEL HUNTER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**